



Senate

General Assembly

File No. 99

February Session, 2018

Substitute Senate Bill No. 205

Senate, March 28, 2018

The Committee on Insurance and Real Estate reported through SEN. LARSON of the 3rd Dist. and SEN. KELLY of the 21st Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING RESCISSION, CANCELLATION AND
LIMITATION OF HEALTH INSURANCE COVERAGE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-477b of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective July 1, 2018*):

3 (a) [Unless approval is granted pursuant to subsection (b) of this
4 section, no] No insurer or health care center may rescind, cancel or
5 limit any policy of insurance, contract, evidence of coverage or
6 certificate that provides coverage of the type specified in subdivisions
7 (1), (2), (4), (6), (10), (11) and (12) of section 38a-469 [on] more than two
8 years after the effective date of the policy, contract, evidence of
9 coverage or certificate:

10 (1) On the basis of written information submitted on, with or
11 omitted from an insurance application by the insured, [if] including,
12 but not limited to, any submission or omission that constitutes fraud,

13 intentional misrepresentation or intentional omission; or

14 (2) If the insurer or health care center failed to complete medical
15 underwriting and resolve all reasonable medical questions related to
16 the written information submitted on, with or omitted from the
17 insurance application before issuing the policy, contract, evidence of
18 coverage or certificate. [No insurer or health care center may rescind,
19 cancel or limit any such policy, contract, evidence of coverage or
20 certificate more than two years after the effective date of the policy,
21 contract, evidence of coverage or certificate.]

22 [(b) An insurer or health care center shall apply for approval of such
23 rescission, cancellation or limitation by submitting such written
24 information to the Insurance Commissioner on an application in such
25 form as the commissioner prescribes. Such insurer or health care center
26 shall provide a copy of the application for such approval to the insured
27 or the insured's representative. Not later than seven business days
28 after receipt of the application for such approval, the insured or the
29 insured's representative shall have an opportunity to review such
30 application and respond and submit relevant information to the
31 commissioner with respect to such application. Not later than fifteen
32 business days after the submission of information by the insured or the
33 insured's representative, the commissioner shall issue a written
34 decision on such application. The commissioner shall only approve:

35 (1) Such rescission or limitation if the commissioner finds that (A)
36 the insured or such insured's representative submitted the written
37 information on or with the insurance application that was fraudulent
38 at the time such application was made, (B) the insured or such
39 insured's representative intentionally misrepresented information
40 therein and such misrepresentation materially affects the risk or the
41 hazard assumed by the insurer or health care center, or (C) the
42 information omitted from the insurance application was intentionally
43 omitted by the insured or such insured's representative and such
44 omission materially affects the risk or the hazard assumed by the
45 insurer or health care center. Such decision shall be mailed to the

46 insured, the insured's representative, if any, and the insurer or health
47 care center; and

48 (2) Such cancellation in accordance with the provisions set forth in
49 the Public Health Service Act, 42 USC 300gg et seq., as amended from
50 time to time.

51 (c) Notwithstanding the provisions of chapter 54, any insurer or
52 insured aggrieved by any decision by the commissioner under
53 subsection (b) of this section may, within thirty days after notice of the
54 commissioner's decision is mailed to such insurer and insured, take an
55 appeal therefrom to the superior court for the judicial district of
56 Hartford, which shall be accompanied by a citation to the
57 commissioner to appear before said court. Such citation shall be signed
58 by the same authority, and such appeal shall be returnable at the same
59 time and served and returned in the same manner, as is required in
60 case of a summons in a civil action. Said court may grant such relief as
61 may be equitable.]

62 [(d)] (b) The Insurance Commissioner may adopt regulations, in
63 accordance with chapter 54, to implement the provisions of this
64 section.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	July 1, 2018	38a-477b
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Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

This bill is not anticipated to result in a fiscal impact because the rescission approval process eliminated by the bill has not been used by any insurers in the last four years. Therefore this bill is not anticipated to significantly increase the number of external review requests which are handled by the Insurance Department.

The Out Years***State Impact:*** None***Municipal Impact:*** None*Sources: Connecticut Insurance Department*

OLR Bill Analysis**sSB 205*****AN ACT CONCERNING RESCISSION, CANCELLATION AND LIMITATION OF HEALTH INSURANCE COVERAGE.*****SUMMARY**

This bill eliminates a health insurance rescission process that requires the insurance commissioner's approval before an insurer can retroactively cancel or limit a policy under certain circumstances. In doing so, it requires all rescissions to go through the existing adverse determination process (see BACKGROUND).

Current law allows a health insurer, with the insurance commissioner's approval, to rescind a policy up to two years after the policy's effective date if, among other things, the insured omitted information on the application. The bill eliminates the requirement that the commissioner approve such rescissions and similarly eliminates the application and approval process for doing so. It also specifies that, within this time frame, insurers may rescind policies due to fraud or intentional misrepresentation or omission on an insurance application. By law, unchanged by the bill, insurers may not rescind coverage more than two years after the policy's effective date.

These provisions apply to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; (4) limited benefits; (5) accidents only; or (6) hospital or medical services, including those provided under an HMO plan.

EFFECTIVE DATE: July 1, 2018

BACKGROUND

Adverse Determination Rescissions

By law, health insurers may rescind policies, and insureds may appeal such a rescission, according to adverse determination procedures (CGS §§ 38a-591 et. seq.). Generally, these provisions conform to the federal Affordable Care Act and require the insurer to provide advanced notice, the reasons for the rescission, a description of the insurer's grievance procedures, and a notification that the insured has a right to request a review. An insured may request an internal review of the rescission and, if it is denied, an external review conducted by an independent review organization.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/15/2018)